Application No.: 10/776,650 Docket No.: SPINE 3.0-455 CONT III

REMARKS

In the Office Action, the Examiner rejected the claims under the judicially created doctrine of non-statutory double-patenting. Applicant is including a Terminal Disclaimer listing the co-pending applications set forth on pages 1 and 2 of the Official Action, namely U.S. Patent Application Nos. 10/382,702 filed March 6, 2003; 10/776,471 filed February 11, 2004; 10/776,651 filed February 11, 2004; 10/776,656 filed February 11, 2004; and 10/776,434 filed February 11, 2004. Applicant believes the attached Terminal Disclaimer overcomes the double-patenting rejection raised by the Examiner.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: August 19, 2005

Respectfully submitted,

Registration No.: 54,230

LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK, LLP

600 South Avenue West

Westfield, New Jersey 07090

(908) 654-5000

Agent for Applicant